

“An Analytical View of Forest Right Act in Karnataka”

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Abstract

Even after sixty years of Indian planning, the deprived groups, particularly the tribals, continue to remain underdeveloped, with their living conditions deteriorating further. From a historical perspective, this chapter seeks to capture the political undercurrents of economic policymaking towards the tribal and tribal development planning, and specifically analyses the consequences of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006. Examining whether this new, politically motivated law will provide an impetus for the tribals' economic progress and environmental sustainability, it is argued that this legislation will neither benefit the tribal communities nor enhance conservation. Rather, it serves as a cloak to justify non-tribal intervention, with potentially disastrous consequences. The study found slow implementation of Forest Right Act to scheduled Castes and traditional forest dwellers in India.

Key words: Forest Right Act, Tribal, Traditional Forest Dwellers

Introduction

When the United Progressive Alliance came to power in the Indian general elections of May 2004, it published a Common Minimum Programme in which it promised to end the eviction of tribal and other forest-dwelling people from forest lands. In March 2005, the Ministry of Tribal Affairs presented the first draft of the Forest Rights Act that guaranteed the right of tribal and other forest-dwellers to continue to cultivate forest land that they had cultivated in the past. The draft Bill was tabled in Parliament on the 13th of December, 2005, and passed a year later after much contentious debate that was widely reported in the news media. The Government of India issued Rules under the Act in January 2008 (Somanathan, Baland, Krishnaswamy, & Libois, 2013). It deals with the rights of forest-dwelling communities over land and other resources. The Act grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws. Ownership to land that is being farmed by tribals or forest dwellers subject to a maximum of 4 hectares; ownership is only for land that is actually being cultivated by the concerned family, meaning that no new lands are granted. to minor forest produce (also including ownership), to grazing areas, to pastoralist routes, etc. to rehabilitation in case of illegal eviction or forced displacement; and to basic amenities, subject to restrictions for forest protection. to protect forests and wildlife.

Before the FRA was passed, it was routine to find that forest department officials interfered in the cultivation of these forest lands, as it was illegal on paper and therefore there were cases filed against the tribals in police stations. This interference was to prevent conversion of forest land for any cultivation purpose and to prevent the tribes from harvesting the minor forest produce in the forest lands. It is expected that granting the titles under FRA would reduce the interference of forest department officials in the cultivation of the forest lands by the tribes, thereby enhancing their forest based livelihood incomes (Kondepoti, 2013).

Eligibility: Eligibility to get rights under the Act is confined to those who “primarily reside in forests” and who depend on forests and forest land for a livelihood. Further, either the claimant must be a member of the Scheduled Tribes scheduled in that area or must have been residing in the forest for 75 years.

Process of recognition of rights: The Act provides that the gram sabha, or village assembly, will initially pass a resolution recommending whose rights to which resources should be recognised. This resolution is then screened and approved at the level of the sub-division (or

taluka) and subsequently at the district level. The screening committees consist of three government officials (Forest, Revenue and Tribal Welfare departments) and three elected members of the local body at that level. These committees also hear appeals (Insights, 2016).

Government of India while passing Forest Right bill was focus on individual claims to cultivate and live on forest land. The Act states that “such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares (India, 2005).

E. Somanathan, Jagdish Krishnaswamy, Francois Libois, Jean-Marie Baland (2013) have conducted a study on *“Exploratory research on the impact of the Forest Rights Act, 2006, on deforestation, tribal welfare, and poverty, with implications for implementation strategies”* There are some suggestive findings from Jhadol block, a tehsil of Udaipur district in Rajasthan 70% of whose population is from the Scheduled Tribes. First, the Forest Rights Act has benefitted at most a small fraction, 3 percent, of tribal families. This constitutes about 2% of all families in Jhadol. About four times as many households applied for individual titles to land as got them. It appears that rejections were most frequently because land was occupied after the cut-off date. This suggests that the Act did trigger attempts to privatize land, in addition to securing title to land that had already been occupied. It also suggests that the proportion of tribal and other households who had insecure holdings of land in the forest was small (Somanathan, Baland, Krishnaswamy, & Libois, 2013).

Harsha (2018) has conducted study on *“State in hall of shame as tribals await land title deeds”* he found “As many as 975 out of total 1,100 applications submitted for title deeds by Siddis in Haliyal taluk were rejected by the committee headed by the assistant commissioner. In Yellapur taluk, a few tribals had received ownership rights over land up to four guntas,” he told The New Indian Express. Karnataka Adiwasi Rakshana Parishath (KARP) president M Krishnaiah said that under Forest Rights Act (FRA), a beneficiary is entitled to two acres of land besides 10 acres of common land for grazing, burial, etc under Community Forest rights (Harsha, 2018).

Rationale of the Study

A major concern in the implementation of the FRA Act is that, over the years, a series of enactments, policy measures and guidelines issued by the central government have diluted the FRA Act and the structure of democratic governance by gram sabhas (Lee J.I., 2018). A critical review of the implementation of the FRA and the status of living standard at the tribals reveals that the awareness level is too low among the tribals especially for those living in the interior forest areas. Such a poor awareness level is bound to affect the implementation process; and evidently that is what has been happening. Further, the problems faced by the respondents in claiming their forestlands present a dismal picture as in the case of the claims rejected in Gujarat for want of only 'satellite imagery' as evidence. Only 1.6 per cent of the 2.9 million claims approved under the Forest Rights Act recognize community rights; the rest recognise individual rights over forest dwellings and farms in forestland. Now consider this: community rights under the Act include the right to collect minor forest produce, like bamboo and tendu leaves, which accounts for half the forest department revenue. Reason enough for states to scuttle community rights, which the Centre is trying desperately to enforce. The government of India views major forest products rights as a means to curb Naxalism since the states most affected by Naxalism are also home to the maximum number of people dependent on forest produce. These states contribute more than 90 per cent of the MFP trade (Richard Mahapatra, 2018).

Methods and materials:

The present study is descriptive in nature hence, descriptive research design was adopted. The study mainly relies upon secondary data of implementation of Forest Right act 2006. Researcher has analyzed data of Ministry of forest affairs, government of India report published in 2018.

Objectives of research

- To study the significance of the forest rights act on tribal land rights
- To assess challenges in implementation of Forest Right act.

Results and Discussions

Table No.01 State wise details of claims received and the extent of forest land for which titles distributed (Individual and community), as on 30.04.2018, in major states, is indicated below.

S. No.	States	No. of Claims received upto 30.04.2018			No. of Titles Distributed upto 30.04.2018			Extent of Forest land for which titles distributed (in acres)		
		Individual	Community	Total	Individual	Community	Total	Individual	Community	Total
		1	2	3	4	5	6	7	8	9
1	Andhra Pradesh	1,70,437	4,043	1,74,480	91,758	1,372	93,130	2,24,262	4,50,380	6,74,642
2	Assam	1,48,965	6,046	1,55,011	57,325	1,477	58,802	NA	NA	NA
3	Bihar	8,022	0	8,022	121	0	121	NA	0	NA
4	Chhattisgarh	8,56,150	31,515	8,87,665	3,98,181	18,178	4,16,359	8,36,502	18,36,959	26,73,461
5	Goa	9,758	372	10,130	17	8	25	29	6	35
6	Gujarat	1,82,869	7,187	1,90,056	83,699	3,516	87,215	1,29,572	11,61,351	12,90,923
7	Himachal Pradesh	2,053	170	2,223	129	7	136	6	4,671	4,677
8	Jharkhand	1,05,363	3,667	1,09,030	58,053	2,090	60,143	1,02,918	99,782	2,02,700
9	Karnataka	2,75,446	5,903	2,81,349	14,667	1,406	16,073	20,814	28,156	48,969
10	Kerala	36,140	1,395	37,535	24,599	NA	24,599	33,018	NA	33,018
11	Madhya Pradesh	5,77,472	39,618	6,17,090	2,22,051	27,280	2,49,331	8,03,537	13,20,990	21,24,527
12	Maharashtra	3,52,950	11,408	3,64,358	1,06,898	5,748	1,12,646	5,77,026	44,35,945	50,12,971
13	Odisha	6,09,164	13,712	6,22,876	4,15,319	6,460	4,21,779	6,17,176	3,41,572	9,58,747
14	Rajasthan	73,455	704	74,159	37,317	92	37,409	56,828	500	57,328
15	Tamil Nadu	34,302	803	35,105	3,797	225	4,022	5,417	0	5,417
16	Telangana	1,83,252	3,427	1,86,679	93,639	721	94,360	3,00,284	4,54,055	7,54,339
17	Tripura	2,00,358	277	2,00,635	1,27,029	55	1,27,084	4,59,985	91	4,60,076
18	Uttar Pradesh	92,520	1,124	93,644	17,712	843	18,555	18,854	1,20,802	1,39,657
19	Uttarakhand	3,574	3,091	6,665	0	0	0	0	0	0
20	West Bengal	1,31,962	10,119	1,42,081	44,444	686	45,130	21,014	572	21,586
	TOTAL	40,54,212	1,44,581	41,98,793	17,96,755	70,164	18,66,919	42,07,241	102,55,831	144,63,072

Source: Government of India Ministry of Tribal Affairs 2018.

The above table depicts that state wise implementation of Forest Right Act-2006 especially in Karnataka 2,75,446 individuals and 5,903 communities claims have been received among them 14667 individuals and 1406 communities in total 16073 titles have been issued. Government has extended forest land 20,814 acres of communities and 28,156 acres of individuals land to cater the requirement of which titles have been distributed in Karnataka. It clearly shows majority of population claiming this rights but little number have entitled the right. Uttarakhand 6665 people have claimed the land right under Forest Right Act but nil titles distributed so far. It clearly shows mechanism of implementation in Gram Sabha, taluk and district level not up to the mark when it come to implementation.

Table 2 Ranking wise percentage of titles distributed over number of claims received in each state under the scheduled tribes and other forest dwellers (Recognition of Forest Rights) act 2006.

S. No.	States	No. of Claims received upto 30.04.2018			No. of Titles Distributed upto 30.04.2018			No. of Claims Rejected	% of Titles distributed over number of claims received
		Individual	Community	Total	Individual	Community	Total		
1	Andhra Pradesh	1,70,437	4,043	1,74,480	91,758	1,372	93,130	66,351	53.38%
2	Assam	1,48,965	6,046	1,55,011	57,325	1,477	58,802	0	37.93%
3	Bihar	8,022	0	8,022	121	0	121	4,215	1.51%
4	Chhattisgarh	8,56,150	31,515	8,87,665	3,98,181	18,178	4,16,359	4,62,403	46.90%
5	Goa	9,758	372	10,130	17	8	25	47	0.25%
6	Gujarat	1,82,869	7,187	1,90,056	83,699	3,516	87,215	64,769	45.89%
7	Himachal Pradesh	2,053	170	2,223	129	7	136	7	6.12%
8	Jharkhand	1,05,363	3,667	1,09,030	58,053	2,090	60,143	29,521	55.16%
9	Karnataka	2,75,446	5,903	2,81,349	14,667	1,406	16,073	1,80,956	5.71%
10	Kerala	36,140	1,395	37,535	24,599	NA	24,599	7,889	65.54%
11	Madhya Pradesh	5,77,472	39,618	6,17,090	2,22,051	27,280	2,49,331	3,62,671	40.40%
12	Maharashtra	3,52,950	11,408	3,64,358	1,06,898	5,748	1,12,646	2,31,856	30.92%
13	Odisha	6,09,164	13,712	6,22,876	4,15,319	6,460	4,21,779	1,50,524	67.71%
14	Rajasthan	73,455	704	74,159	37,317	92	37,409	35,912	50.44%
15	Tamil Nadu	34,302	803	35,105	3,797	225	4,022	8,861	11.46%
16	Telangana	1,83,252	3,427	1,86,679	93,639	721	94,360	83,757	50.55%
17	Tripura	2,00,358	277	2,00,635	1,27,029	55	1,27,084	68,477	63.34%
18	Uttar Pradesh	92,520	1,124	93,644	17,712	843	18,555	74,945	19.81%
19	Uttarakhand	3,574	3,091	6,665	0	0	0	6,453	0.00%
20	West Bengal	1,31,962	10,119	1,42,081	44,444	686	45,130	96,587	31.76%
TOTAL		40,54,212	1,44,581	41,98,793	17,96,755	70,164	18,66,919	19,36,201	44.46%

Source: Government of India Ministry of Tribal Affairs 2018.

The above statistics shows that, implementation and title distributed and number of claims received by beneficiaries. Karnataka forest dwellers still received 5.71% of titles distributed but rest 94.29% of people who are claiming the right still they have not got entitlement. However it clearly shows slow implementation of the act Odisha has attained 67.71%, Kerala with 65.54% of claims have been titled land right.

Challenges in implementation of forest right act

There have been several criticisms against the manner in which the Act has been implemented so far (Saravanan, 2018).

Deficiency within Gram Sabha The Gram Sabha (village assembly) is the first tier of decision-making as per the Act. But in most of the states, the Gram Sabha do not have the desired infrastructure and technical know-how to keep these records. In many tribal areas, Gram Sabha is yet to be constituted.

Lack of regular elections in panchayats - In many states the panchayat system is not very strong and in some cases, the panchayat elections are not held regularly. In such areas, the Gram panchayats are not operational up to the desired level necessary for the implementation of the Act.

Ambiguity in the formation of Forest Rights Committee - Each village is to elect a committee of 10-15 people from its residents as a Forest Rights Committee, which will do the initial verification of claims and place its recommendations before the Gram Sabha. However, in most of the states Gram panchayat responsible for the formation of Forest Rights Committee comprising of these people are not efficient enough to implement the Act in letter and spirit.

A deliberate focus on individual rather than community rightscommunity forest management is the most sustainable and democratic model of forest governance. Still, the administrative machinery is found to be concentrating more on claims for individual user rights rather than community rights. So far, very few claims are filed under community rights and most of them have been neglected.

Lack of awareness and Illiteracy - The main target beneficiaries of this act are mostly illiterate and therefore filling and submission of forms regarding the claims becomes very difficult. In this case, many intermediaries with vested interests try to take advantage of the situation. Also, there is severe lack of awareness about the provisions of the act not only among the beneficiaries but also among the officials in charge of implementing it.

Lack of land records as proof - As per the provision in Act it is the responsibility of the officials to provide required documents to the individual & communities as proof but it is not taken up by the concerned departments. In the absence of authentic records, actual eligible people have to face serious problems in claiming their rights.

Non-recognition of rights in Protected Areas (PA) - In protected areas, the process of settling the claims is extremely slow and also there are efforts to relocate the beneficiaries illegally.

Other Traditional Forest Dwellers their claims are not recognized in most states, partly due to wrong interpretation that they required to have occupied land for three generation. No documentary evidence is available to prove that they are living in the area for 75 years.

Primitive Tribal Groups - The provision for community/habitat right of Primitive Tribal Group, pre-agricultural communities is not appropriately implemented so far. There is lack of clarity on the mechanism for claiming right. Such communities are mostly interested in habitats right as it gives them a permanent settlement.

Lack of inter-departmental coordination- The tribal department has been declared as the nodal department for the enactment of this Act, but the records for the forest lands are in possession of either forest department or the revenue department. Involvement of three departments - the tribal welfare department, the revenue department and the forest department makes it difficult to have a good liaison between them.

Harassment by forest officials under Indian Forest Act 1927 government has arbitrary power to take over forest land without proper rehabilitation of tribals and other forest dwellers, putting them at the risk of harassment by local forest officials, especially in Naxal affected areas. It also results in large-scale rejection of claims in Naxal affected areas.

Attempts to dilute the provisions of the act - Now through various legislations and rules the FRA is sought to be violated by side-stepping the Gram Sabha in the name of ease of doing business and wildlife conservation. The Ministries of Tribal Affairs and Environment have been at loggerheads with each other over the need to acquire land, including forest land, for industries.

Diverting forest lands for non-forest purposes- There is apprehension that Land Acquisition Act, Mines and Mineral development Act and Compensatory Afforestation Fund Act will make it possible for the government to take away rights given under Forest Rights Act, 2006.

Conclusion

The Supreme Court, on February 28, 2019, accepted the Union government's appeal, stayed its two-week-old order and permitted 21 states to temporarily withhold eviction of lakhs of forest dwellers, whose claim to the land had been rejected (Earth, 2019). More than 11 lakh Schedule Tribes and other forest dwelling tribes were affected by this order. This verdict was against to land right of tribal and traditional forest dwellers. Since developmental programmes of Indian government, exploitations are going on in the name of development, corporates were permitted to use forest resources whereas tribes (pan-Indian) aborigines were denied to utilize forest

resource. Example western gat forest land was given to Mysore Paper Mill for growing artificial forest to grow Acacia Mangium tree to produce raw pulp for Bison brand paper making. 67551.44 hectare of bio-diversal forest has been given to MPM for lease only in Shimoga district (Department, 2003). They cut biodiverse forest and grown Acacia Mangium plantation in forest land. But recently in 2017 Karnataka State government's banned on planting of eucalyptus, acacia trees the trees have caused as severe dip in water table and rainfall (Kaggere, 2017). Government has given permission for deforestation, mining and government projects in the name development. Whereas, government denying the access of tribal to enter and have land and use of forest products in forest region it is against to their right as well as exploitation against voiceless.

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